

REMARKS:

Applicant has carefully studied the nonfinal Examiner's Action and all references cited therein. The amendment appearing above and these explanatory remarks are believed to be fully responsive to the Action. Accordingly, this important patent application is now believed to be in condition for allowance.

Applicant responds to the outstanding Action by centered headings that correspond to the centered headings employed by the Office, to ensure full response on the merits to each finding of the Office.

Claim Objections

The Office objected to claims 5 and 6 due to informalities in the amendment of Paper No. 16, received 11/17/03. Evidently, the strikethrough for the number "4" is not identifiable due to the location of the strikethrough. Applicant has amended claims 5 and 6 to clearly indicate the substitution of "Claim 1" for "Claim 4".

Double Patenting

Claims 1, 2, 3, 5, 6, 7, 8, 9, 10, 11 and 15 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 3-16 of U.S. Patent No. 6,135,990. The Office states that while the conflicting claims are not identical, they are not patentably distinct from each other because they each recite a device for manipulating a molecule in vivo including an elongated member of alternating electrodes and sleeves with the electrode or sleeve protruding from the bottom of the other on the elongated member. The electrodes are claimed in the application and the patent to be simultaneously activated.

A Terminal Disclaimer To Obviate A Double Patenting Rejection Over A Prior Patent is attached hereto as a separate paper.

Request for Clarification

The Office has requested clarification in Claims 1 and 15 regarding the relationship between the "discrete electrodes" and the "source of electrical energy". Applicant has amended Claims 1 and 15 to clarify the relationship as requested.

Independent Claims 1 and 15, as amended, are believed to be in condition for allowance.

Claims 2-14 are dependent upon Claim 1, and are therefore allowable as a matter of law.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 507-8558 is requested.

Very respectfully,

SMITH & HOPEN

By:


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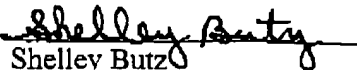
Dated: March 18, 2004

CERTIFICATE OF FACSIMILE TRANSMISSION

(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment B is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3763, Attn.: Michael J. Hayes, (703) 872-9302 on March 18, 2004.

Dated: March 18, 2004


Shelley Butz